Federal Court dismisses challenge to Trans Mountain pipeline expansion

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FULL TEXT

B.C. First Nations and environmental groups are promising to continue the fight against the Trans Mountain pipeline expansion. But B.C. business leaders are celebrating Tuesday's court decision that upheld the federal government's approval of the project.

The Tsleil-Waututh Nation, Squamish Nation, Coldwater Indian Band and a coalition of small First Nations in the Fraser Valley filed a legal challenge in the Federal Court of Appeal arguing that the government's consultation with them was inadequate.

The court ruled in a unanimous 3-0 decision on Tuesday that the government met its duty to consult, clearing a major legal hurdle for construction to continue on the expansion of the pipeline from Alberta's oilsands to B.C.'s coast.

Coun. Khelsilem of the Squamish Nation told a news conference in Vancouver that oil and gas is not the future for the economy when the effects of climate change have been felt in Canada through wildfires.

"When we're looking down the barrel of a gun ... we must act swiftly and boldly," he said. "Australia is burning. B.C. was burning. Alberta was burning. And yet this government wants to double down on building more oil pipelines. That is not a future that we can invest in."

The four Indigenous groups oppose the expansion because of the risk of oil spills and increased emissions. They are still deciding whether to seek leave to appeal to the Supreme Court of Canada, but said they would pursue all available options to stop the project.

The Tsleil-Waututh still have an application before the high court, asking it to review a Federal Court of Appeal ruling last September that limited the scope of the legal challenges to the government's most recent round of consultations.

Chief Leah George-Wilson of the Tsleil-Waututh criticized the legal standard applied by the court, which requires the approval of the project to be "reasonable" in light of the law and evidence.

"If we're talking about reconciliation and protection of the environment, I don't think 'reasonable' is adequate. I think that sets a low bar for our reconciliation," she said.

Environmental organizations based in B.C. also expressed dismay at the ruling, with Stand.earth's international program director, Tzeporah Berman, saying "Canada is broken."

Chief Lee Spahan of the Coldwater Indian Band speaks as he and other Indigenous leaders comment on the Trans Mountain pipeline decision by the Federal Court of Appeal in Vancouver B.C, Tuesday, February 4, 2020.

"For too long, we've treated First Nations as second-class citizens. This Federal Court decision reinforces that colonialism is alive in Canada and that reconciliation is a lie," she said in a statement.

A group called Burnaby Residents Opposing Kinder Morgan Expansion issued a statement saying the Trudeau government has a duty to protect the city and surrounding communities.

"They must stop ignoring the very serious threats to public safety and our environment from the old and planned pipelines, from the old and planned storage tanks on Burnaby Mountain, and from the current and planned shipping in Burrard Inlet and the Salish Sea," it said.

Industry groups, on the other hand, celebrated the court decision as a win for B.C.'s economy and reputation with international investors.

Val Litwin, CEO of the B.C. Chamber of Commerce, said the project represents a "huge" capital investment that will create both construction and permanent jobs in the province. It also shows the world that Canada can get its natural

resources to market in a safe way that limits environmental impacts and respects human rights, he said.
"Today's unanimous decision is obviously inspiring news for TMX, but more broadly this is an important development for Canada's resource sector. It sends a signal again that projects can get built here and that Canada is definitely open for business," Litwin said.
The City of Vancouver, which has long opposed the pipeline project, said it stands with First Nations that are opposed to Trans Mountain.
Trans Mountain construction is underway in Alberta.
"The city remains of the view that the Trans Mountain pipeline project would have significant environmental impacts, including the unacceptable risk of oil spills and increased greenhouse gas emissions related to the project at a time when the world needs to reduce emissions," it said in a statement.
The B.C. government recently lost its own case before the Supreme Court of Canada, in which it argued that it should be able to regulate hazardous substances that flow through the province. The top court ruled that only the federal government has jurisdiction over inter-provincial pipelines.
Environment Minister George Heyman said in a statement Tuesday that the government remains concerned about the risks posed by diluted bitumen and the potential of a catastrophic oil spill on the B.C. coast.
"We will continue to urge the federal government to ensure that the strongest protections possible are put in place to protect our environment, public safety, our coast and the tens of thousands of jobs that are at risk from a spill."

DETAILS

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People:	Berman, Tzeporah
Company / organization:	Name: Tsleil-Waututh Nation; NAICS: 921150; Name: Squamish Nation; NAICS: 921150; Name: Supreme Court-Canada; NAICS: 922110; Name: Kinder Morgan Inc; NAICS: 211120, 221210, 324110, 486910; Name: Trans Mountain Corp; NAICS: 486110, 486910
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